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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,443	08/05/2003	Neil G. Sellars	98-40145-US-D1	8289

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EXAMINER
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CHAN, SING P

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/634,443

Applicant(s)

SELLARS, NEIL G.

Examiner

Sing P. Chan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.138(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 33-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 33-38 rejected under 35 U.S.C. 103(a) as being unpatentable over Atkins (GB 2,299,568) in view of Mehta (U.S. 6,073,377).

Regarding claim 33, Atkins discloses a method of forming a label assembly. The method includes providing a planar member with oppositely first and second surfaces, a length greater than the periphery of the object to be label, a portion for evidencing potential tempering, printing indicia on one of the surfaces, applying pressure sensitive adhesive on the label assembly, and affixing the label assembly about the periphery of the object. (Page 6, line 26 to Page 7, line 5) Atkins is silent as to the evidencing potential tempering includes a capped opening of the object. However, providing a label assembly with evidencing potential tempering for the capped opening of the object is well known and conventional as shown for example by Mehta. Mehta discloses a label assembly, which includes security portion adapted to be attached to a closure device such as a lid, a cap or a top for a container. (Col 4, lines 44-49)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a security portion adapted to be attached to a cap of a container as disclosed by Mehta in the method of Atkins to provide evidencing potential

tempering or indicate whether the container has been opened. (See Mehta, Col 4, lines 51-54)

Regarding claim 34, Atkins discloses applying a peelable adhesive, which is a releasable adhesive, onto the label assembly. (Page 7, lines 6-11)

Regarding claim 35, Atkins discloses applying a release coating to the top surface of the first end of the label, which is considered to be protective material. (Page 6, lines 34-35)

Regarding claim 36, Atkins discloses applying a de-sensitive material to "killed" a strip of adhesive on the underside. (Page 4, lines 24-28 and Page 6, line 35 to Page 7, line 1)

Regarding claims 37, and 38, Atkins discloses forming tear lines by a perforator for forming a tearable strip to facilitate separation of a part of the label assembly. (Page 7, lines 2-3)

3. Claims 39-41 and 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atkins (GB 2,299,568) in view of Cillario (U.S. 4,472,895).

Regarding claim 39, Atkins discloses a method of forming a label assembly. The method includes providing a planar member with oppositely first and second surfaces, a length greater than the periphery of the object to be label, providing a pair of notches, i.e. recess, which form a tab, applying pressure sensitive adhesive on the label assembly, and affixing the label assembly about the periphery of the object. (Page 6, line 26 to Page 7, line 5) Atkins is silent as to the label assembly includes a first and second portion with the second portion overlaps at least a portion of the first portion

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around the periphery of the object, a first and second edges having different length such that the first portion of the member is oriented at an oblique angle relative to the second portion with the second portion maintains a substantially similar width across the length of the second portion. However, providing a label assembly includes a first and second portion with the second portion overlaps at least a portion of the first portion around the periphery of the object, a first and second edges having different length such that the first portion of the member is oriented at an oblique angle relative to the second portion with the second portion maintains a substantially similar width across the length of the second portion is well known and conventional as shown for example by Cillario.

Cillario discloses a label assembly. The assembly includes a first portion, i.e. a band or strip element (2) with a label (5), a second portion, i.e. a flap (6) (Col 1, lines 27-51), which is oriented at an oblique angle to each other (See Figures 1-3); which provide a first and second edges of different length and the second portion overlap a portion of the first portion (Col 1, lines 46-48), and the portion of the second portion before a profile (9) maintains similar width across the length of that portion (Col 1, lines 57-59 and Figures 1-3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide label assembly includes a first and second portion with the second portion overlaps at least a portion of the first portion around the periphery of the object, a first and second edges having different length such that the first portion of the member is oriented at an oblique angle relative to the second portion with the second portion maintains a substantially similar width across the length of the second

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portion as disclosed by Cillario in the method of Atkins to providing additional label to allow for ease to append written messages such as greetings and addresses to packaged products. (See Cillario, Col 1, lines 8-15)

Regarding claim 40, Atkins discloses applying a peelable adhesive, which is a releasable adhesive, onto the label assembly. (Page 7, lines 6-11)

Atkins discloses applying a release coating to the top surface of the first end of the label, which is considered to be protective material. (Page 6, lines 34-35)

Regarding claim 41, Atkins discloses applying a de-sensitive material to "killed" a strip of adhesive on the underside. (Page 4, lines 24-28 and Page 6, line 35 to Page 7, line 1)

Regarding claims 48 and 49, Atkins discloses forming tear lines by a perforator for forming a tearable strip to facilitate separation of a part of the label assembly. (Page 7, lines 2-3)

Regarding claim 50, Atkins discloses the tear lines, which facilitate removal of a strip and provides tamper evidence. (Page 5, lines 22-26)

4. Claims 39-42, 48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holden-Banks (GB 2,311,273) in view of Cillario (U.S. 4,472,895).

Regarding claim 39, Holden-Banks discloses a method of forming a wrap around label. The label includes two portions (Figures 2, 5, 11, and 12) with a combined length that is greater than the circumference of the container with a first and second edges in opposite position with different length and a portion of the label with the edge at an oblique angle, coating the adhesive to the contact surface of the label to the container,

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wherein the adhesive is considered to be pressure sensitive adhesive, printing ink onto the underside adhesive face, and printing the opposite face of the label without the adhesive coating. (Page 4, lines 1-15 and Page 12, lines 1-27 and Figures 10-12)

Holden-Banks is silent as to the label assembly includes a first and second portion with the second portion overlaps at least a portion of the first portion around the periphery of the object, a first and second edges having different length such that the first portion of the member is oriented at an oblique angle relative to the second portion with the second portion maintains a substantially similar width across the length of the second portion. However, providing a label assembly includes a first and second portion with the second portion overlaps at least a portion of the first portion around the periphery of the object, a first and second edges having different length such that the first portion of the member is oriented at an oblique angle relative to the second portion with the second portion maintains a substantially similar width across the length of the second portion is well known and conventional as shown for example by Cillario. Cillario discloses a label assembly. The assembly includes a first portion, i.e. a band or strip element (2) with a label (5), a second portion, i.e. a flap (6) (Col 1, lines 27-51), which is oriented at an oblique angle to each other (See Figures 1-3), which provide a first and second edges of different length and the second portion overlap a portion of the first portion (Col 1, lines 46-48), and the portion of the second portion before a profile (9) maintains similar width across the length of that portion (Col 1, lines 57-59 and Figures 1-3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide label assembly includes a first and second portion with the second portion overlaps at least a portion of the first portion around the periphery of the object, a first and second edges having different length such that the first portion of the member is oriented at an oblique angle relative to the second portion with the second portion maintains a substantially similar width across the length of the second portion as disclosed by Cillario in the method of Holden-Banks to providing additional label to allow for ease to append written messages such as greetings and addresses to packaged products. (See Cillario, Col 1, lines 8-15)

Regarding claim 41, Holden-Banks discloses printing a coating over the printed matter to form a thin film of release agent, which is considered to be a protective material. (Page 12, lines 21-23)

40, and 42, Holden-Banks discloses applying a coating of release material such as Emiflex to the adhesive to deadening an adhesive region to form a releasable adhesive to allow delamination of the label material and prevent permanent bonding. (Page 6, lines 17-32 and Page 8, lines 6-15)

Regarding claims 48 and 49, Holden-Banks discloses the label includes semi-cuts or perforations to allow separation of the part of the label from the other part of the label. (Page 4, lines 3-11)

5. Claims 43-46 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atkins (GB 2,299,568) in view of Cillario (U.S. 4,472,895) as applied to claims 39 and 50 above, and further in view of Kaufmann (U.S. 5,264,265).



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Regarding claims 43, 45, and 46, Atkins as disclosed above is silent as to the label includes a tab and a recessed edge to facilitating detaching and reattaching the label. However, providing a tab and a recessed edge on a multilayer label is well known and conventional as shown for example by Kaufmann. Kaufmann discloses a method of forming a peel-back re-sealable multiply labels. The label includes a tab and a recess edge on the bottom label to allow reattaching the label. (Col 2, lines 40-52 and Figure 1)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a tab and a recessed edge as disclosed by Kaufmann in the method of Atkins as modified by Cillario to provide a simple and easy means for detaching and reattaching the label.

Regarding claim 44, Atkins is silent as to completely deaden the adhesive at the tab. However, Kaufmann discloses the lift tab has no tacky adhesive on the underside (Col 2, lines 48-50) and one in the art reading Atkins and Kaufmann would appreciate wherein there is adhesive on the underside of the lift tab to logically completely deaden the adhesive to allow easy lifting of the tab into a grabble position.

It would have been obvious to one skilled in the art at the time the invention was made to logically completely deaden the adhesive on the underside of the liftable tab in the method of Atkins as modified by combination of references to allow easy lifting of the tab into a grabble position.

Regarding claim 51, Atkins as disclosed above is silent as to the label includes a recessed edge to facilitating detaching and reattaching the label. However, providing a

recessed edge on a multilayer label is well known and conventional as shown for example by Kaufmann. Kaufmann discloses a method of forming a peel-back re-sealable multiply labels. The label includes a recess edge on the bottom label to allow easy lifting and grasping for detaching and reattaching the label. (Col 2, lines 40-52 and Figure 1)

It would have been obvious to one skilled in the art at the time the invention was made to provide a tab and a recessed edge as disclosed by Kaufmann in the method of Atkins as modified by Cillario to provide a simple and easy means for detaching and reattaching the label.

6. Claims 43-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holden-Banks (GB 2,311,273) in view of Cillario (U.S. 4,472,895) as applied to claim 39 above, and further in view of Kaufmann (U.S. 5,264,265).

Regarding claims 43, 45, and 46, Holden-Banks as disclosed above is silent as to the label includes a tab and a recessed edge to facilitating detaching and reattaching the label. However, providing a tab and a recessed edge on a multilayer label is well known and conventional as shown for example by Kaufmann. Kaufmann discloses a method of forming a peel-back re-sealable multiply labels. The label includes a tab and a recess edge on the bottom label to allow reattaching the label. (Col 2, lines 40-52 and Figure 1)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a tab and a recessed edge as disclosed by Kaufmann in

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the method of Holden-Banks as modified by Cillario to provide a simple and easy means for detaching and reattaching the label.

Regarding claim 44, Holden-Banks discloses applying the release coating to the adhesive to a strip of adhesive to deaden the adhesive to form a liftable tab, (Page 5, line 28 to Page 6, line 2) but is silent as to completely deaden the adhesive at the tab. However, Kaufmann discloses the lift tab has no tacky adhesive on the underside (Col 2, lines 48-50) and one in the art reading Holden-Banks and Kaufmann would appreciate wherein there is adhesive on the underside of the lift tab to logically completely deaden the adhesive to allow easy lifting of the tab into a grabble position.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to logically completely deaden the adhesive on the underside of the liftable tab in the method of Holden-Banks to allow easy lifting of the tab into a grabble position.

7. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Atkins (GB 2,299,568) in view of Cillario (U.S. 4,472,895) and Kaufmann (U.S. 5,264,265) as applied to claim 46 above, and further in view of Mehta (U.S. 6,073,377).

Atkins as modified above is silent as to the evidencing potential tempering includes a capped opening of the object. However, providing a label assembly with evidencing potential tempering for the capped opening of the object is well known and conventional as shown for example by Mehta. Mehta discloses a label assembly, which includes security portion adapted to be attached to a closure device such as a lid, a cap or a top for a container. (Col 4, lines 44-49)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a security portion adapted to be attached to a cap of a container as disclosed by Mehta in the method of Atkins as modified by combination of references to provide evidencing potential tempering or indicate whether the container has been opened. (See Mehta, Col 4, lines 51-54)

8. Claims 47, 50, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holden-Banks (GB 2,311,273) in view of Cillario (U.S. 4,472,895) and Kaufmann (U.S. 5,264,265) as applied to claims 46 and 49 above, and further in view of Mehta (U.S. 6,073,377).

Regarding claims 47 and 50, Holden-Banks as modified above is silent as to the evidencing potential tempering includes a capped opening of the object. However, providing a label assembly with evidencing potential tempering for the capped opening of the object is well known and conventional as shown for example by Mehta. Mehta discloses a label assembly, which includes security portion adapted to be attached to a closure device such as a lid, a cap or a top for a container. (Col 4, lines 44-49)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a security portion adapted to be attached to a cap of a container as disclosed by Mehta in the method of Holden-Banks as modified by the combination of references to provide evidencing potential tempering or indicate whether the container has been opened. (See Mehta, Col 4, lines 51-54)

Regarding claim 51, Holden-Banks as modified above is silent as to the label includes a recessed edge to facilitating detaching and reattaching the label. However,

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providing a recessed edge on a multilayer label is well known and conventional as shown for example by Kaufmann. Kaufmann discloses a method of forming a peel-back re-sealable multiply labels. The label includes a recess edge on the bottom label to allow easy lifting and grasping for detaching and reattaching the label. (Col 2, lines 40-52 and Figure 1)

It would have been obvious to one skilled in the art at the time the invention was made to provide a tab and a recessed edge as disclosed by Kaufmann in the method of Holden-Banks as modified by combination of references to provide a simple and easy means for detaching and reattaching the label.

### **Response to Arguments**

9. Applicant's arguments, see Page 7, line 11 to Page 10, line 16, filed January 17, 2006, with respect to the rejection(s) of claim(s) 33-42 and 47-50 under 35 USC 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Cillario (U.S. 4,472,895) and Mehta (U.S. 6,073,377).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sing P. Chan whose telephone number is 571-272-1225. The examiner can normally be reached on Monday-Thursday 7:30AM-11:00AM and 12:00PM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher A. Fiorilla can be reached on 571-272-1187. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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